OHRC TODAY

Ontario Human Rights Commission | 2014 – 2015 | ANNUAL REPORT

Mental health disabilities, addictions and human rights take centre stage

In summer 2014, along with its partners at Ryerson University, the OHRC released its *new Policy on preventing discrimination based on mental health disabilities and addictions.* This policy provides user-friendly guidance on how to define, assess, handle and resolve human rights issues related to mental health and addiction disabilities.

People with mental health disabilities or addictions continue to face considerable discrimination, stigma and social exclusion in Canada. Many people experience adverse treatment, negative attitudes and harassment in employment, housing and when receiving services. Many are afraid to disclose their disability to others because of the stereotypes and stigma associated with these disabilities. People with mental health disabilities or addictions are also more likely to have low incomes, and many live in chronic poverty.

The policy addresses:

- Different forms of discrimination
- Rights at work, in rental housing, and when receiving services
- Organizations' responsibilities to prevent and eliminate discrimination
- How to create environments that are inclusive and free from discrimination
- How the duty to accommodate applies to people with mental health or addiction disabilities.

June 2014 – A. Jay, whose artwork was chosen for the policy cover, shows off his work with Chris Mitchell of Workman Arts (left) and Barbara Hall, at the launch of the OHRC's Policy on preventing discrimination based on mental health disabilities and addictions at Ryerson University, Toronto.

TODAY

After an overwhelmingly positive community response, we continue to offer training across Ontario. We have provided guidance on new guidelines for colleges and universities, and have reached a preliminary agreement with Ontario Shores Centre for Mental Health Sciences on a long-term project to embed human rights in all facets of this healthcare organization. This is a ground-breaking initiative in the health sector.

We also enjoy a continuing partnership with the Canadian Mental Health Association, bringing the OHRC message to a broader audience.

OHRC: Bias-free policing is needed now

Racial profiling has a deeply corrosive impact, especially on young Black and Indigenous men. Our communities need to be welcoming and inviting – but when racial profiling happens, neighbourhoods become places of distrust and fear. So it's time to root out and eliminate racial profiling whenever we see it.

Racial profiling by the Toronto Police Service is a recognized problem in need of an effective solution. While we appeared to make progress in the Toronto Police Services Board's policy on community engagement – commonly called carding – in early 2014, we view the revised policy, released in 2015, to be a step backwards. We strongly urge the Board to either make major revisions or eliminate the policy altogether. We are calling on the Board to:

- Guide and limit officer discretion to stop and question people
- Require that officers tell people they stop about their right to leave and not answer questions, as much as possible in the circumstances
- Show effective monitoring and accountability including race-based data collection to identify racial bias
- Provide transparency through receipts
- Immediately purge carding intelligence data, already collected, that lacks a non-discriminatory explanation.

We are considering how to best use the full range of our legislated powers to ensure bias-free policing in Toronto and across Ontario.

Ontario Human Rights Commission
Commission ontarienne des droits de la personne

Published by the Ontario Human Rights Commission
Province of Ontario, Toronto, Canada

© 2015, Government of Ontario

ISSN: 0702-0358
Disponible en français

Message from Interim Chief Commissioner Ruth Goba – see page 2

facebook.com/the.ohrc | www.ohrc.on.ca | @OntHumanRights

A message from Interim Chief Commissioner Ruth Goba

It has been an honour – and a pleasure! – to step in and guide the OHRC through Barbara Hall's retirement and the selection of a new Chief Commissioner. Barbara set the stage for success in so many ways, and I hope I have helped that progress continue.

Over the past year, we have seen many positive human rights developments, such as our work on mental health disabilities and addictions, and the growing understanding and acceptance of the transgender community. We have also seen areas where the results are not so positive. That is why we have intensified our efforts in areas like sexual harassment, pregnancy and breastfeeding, racial profiling and outreach to Indigenous communities.

This annual report, called *Human rights today*, offers you a quick look at the work we are doing for tomorrow and the results we are seeing today. Although progress on systemic issues or "big picture" work is sometimes slow, our aim is still to make things better for all kinds of people in all kinds of situations across the province. Whether we are talking about successes or challenges, I commend our impressive team of community partners who continue to provide leadership, expertise and commitment to advancing human rights for everyone in Ontario. I also thank our internal team of Commissioners and excellent staff who do quality work to bring human rights to life.

Let's continue to work together so that we all have true human rights today.

Ruth Goba
Interim Chief Commissioner

Thank you, Barbara Hall

In February 2015, the OHRC said farewell to Chief Commissioner Barbara Hall, after almost a decade of her leadership. Barbara was at the helm as the OHRC moved from a complaint-driven organization to a role involving more collaboration, education and advocacy to eliminate the root causes of discrimination. She also played a key role in our work in housing, gender identity and gender expression, and mental health disabilities and addictions.

Thank you, Barbara, for your vision, your compassion and your leadership. Your work has set the stage and the direction for our ongoing work, and people across Ontario will reap the results for many years to come.

OHRC Commissioners 2014-2015

Barbara Hall, Chief Commissioner (appointed November 28, 2005; completed her term on February 27, 2015)

Ruth Goba, Interim Chief Commissioner (appointed as Commissioner October 5, 2006; term expires December 31, 2015; appointed Interim Chief Commissioner March 2, 2015)

Raja Khouri (appointed September 20, 2006; term expires December 31, 2015)

Fernand Lalonde (appointed May 18, 2005; term expires December 31, 2015)

Julie Lee (appointed September 8, 2009; term expires September 7, 2015)

Lawrence McDermott (Appointed September 8, 2009; term expires September 7, 2015)

Errol Mendes (appointed September 8, 2009; term expires September 7, 2015)

Fiona Sampson (appointed September 8, 2009; term expires September 7, 2015)

Bhagat Taggar (appointed May 18, 2005; term expires December 31, 2015)

Margaret Wente (appointed October 5, 2006; term expires December 31, 2015).

May 25, 2015

Ontario

Hon. Dave Levac
Speaker of the Legislative Assembly of Ontario
Room 180
Main Legislative Building
Queen's Park
Toronto, ON
M7A 1A2

Dear Mr. Speaker:

Under Section 31.6 (2) of the Ontario *Human Rights Code*, the Ontario Human Rights Commission is required to submit a report on the Commission's activities for the previous fiscal period by June 30th of each year, to be tabled in the Legislature.

In this regard, I am pleased to provide you with the Commission's Annual Report of its activities from April 1, 2014 to March 31, 2015.

Yours sincerely,

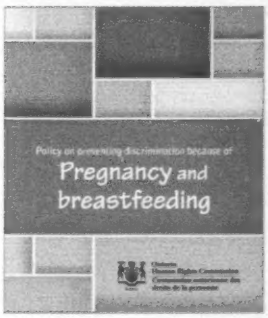
Ruth Goba
Interim Chief Commissioner

Reaching out to Indigenous peoples

The OHRC has expanded its efforts to reach out to Indigenous peoples in Ontario. Highlights of our work in the past year included preparing a statement on designating employment and contracting provisions in Impact and Benefit Agreements as special programs under the Ontario's *Human Rights Code*. Impact and Benefit Agreements (IBAs) are becoming an industry standard for resource development projects that are located on or impact Indigenous people's traditional lands and rights. The agreements often contain employment and contracting provisions that give priority for training, hiring and contracting to Indigenous peoples.

We also set up new partnerships with the Ontario Federation of Indigenous Friendship Centres, and conducted outreach events in Sioux Lookout, Kenora, Thunder Bay, Ottawa and Sault Ste. Marie.

While law clear, reminders needed on pregnancy and breastfeeding



We continue to see regular reports of women not getting hired or losing their jobs because they are pregnant, or getting fired when they take or return from a maternity leave. That's why we hosted a webinar to launch an updated version of our *Policy on preventing discrimination because of pregnancy and breastfeeding*, in partnership with the Ontario Ministry of Health and Long-term Care.

The updated policy, released in October 2014, outlines the needs of, and barriers faced by, women who are or will be mothers and offers a plain-language guide for employers, landlords and service providers on how to address, handle, resolve and prevent any pregnancy or breastfeeding-related discrimination or harassment in their organization.

TODAY

Organizations such as the Restaurants Canada are helping to send the message that it is against the law to discriminate based on pregnancy and breastfeeding.

Sexual harassment: the story continues

Sexual harassment is a significant problem in workplaces across Canada. We have worked to remind employers, service and housing providers of their human rights obligations to prevent and respond to sexual harassment. We released a position statement on sexual harassment in December 2014, hosted our best-attended webinar ever, and continue to work with partners to enhance understanding of human rights in this area. We have also offered our expertise to help deliver the Ontario government's Action Plan to Stop Sexual Violence and Harassment, and are serving on the Roundtable on Violence Against Women.

Gender identity policy just the beginning

Launching our *Policy on preventing discrimination because of gender identity and gender expression* in spring 2014 was just the beginning of a larger job to educate and advocate for change in Ontario. We are already seeing important results.

For example, we welcomed Ontario's new procedures and forms allowing for changing sex designation on the birth registration of minors. In the new system, parents or legal guardians and a physician or psychologist (including a psychological associate) need to agree the change is appropriate. The child must agree as well. Youth age 16 and 17 can decide for themselves and follow the same procedure for adults. These changes reflect some of the issues we raised in a submission to the government in August 2014, and also appear in keeping with the OHRC's policy.

We were also involved with the Ministry of Community Safety and Correctional Services as it developed and launched a ministry-wide policy preventing discrimination against inmates because of their gender identity or gender expression.

TODAY

Understanding and acceptance of transgender people is growing in Ontario, as is awareness that discriminating based on gender identity or gender expression is against the law.

October 2014 – introducing the OHRC's Policy on preventing discrimination because of gender identity and gender expression in Ottawa (left to right): OHRC Chief Commissioner Barbara Hall; Deputy Mayor Steve Desroches, City of Ottawa; Kathryn Ann Hill, Family Services Ottawa; Vanessa Tamburro, OHRC; Hannah Biancardi, Ottawa Rainbow Service Providers Network; Robert Pascoe; Jeff Poirier, OHRC; Talia Johnson; Jennifer Purkiss, Centretown Community Health Centre.

New options for employers

Getting human rights information into the right hands in workplaces across Ontario is essential. We made a major step forward in the past year though our work with the Human Resources Professionals association. As we have for many years, we attended the annual HRPA conference and distributed thousands of brochures, guides and policies to employers. Work is under way to combine our expertise with HRPA's connections with employers to increase human rights awareness among their 22,000 members.

TODAY

Employers have a growing range of options for learning about their human rights responsibilities.

Moving forward on the Correctional Services' Human Rights Project Charter

We continued our work with the Ministry of Community Safety and Correctional Services (Correctional Services) and the Ministry of Government and Consumer Services (MGCS) on a Human Rights Project Charter. This long-term organizational change project, which arose from the settlement of a long-standing human rights complaint, has now been extended to 2017.

Over the past year, Correctional Services, with support from the OHRC and MGCS, has done critical planning and begun to put in place some of the major human rights initiatives to be implemented between now and 2017. This includes creating criteria and long-term strategies for developing and reviewing policies and programs from human rights and Indigenous perspectives. Similar work has begun on reviewing Correctional Services' training curricula. We have also worked on plans for evaluating the outcomes of the Human Rights Plan and longer-term human rights organizational change.

Correctional Services' human rights staff have also provided input into the review and updating of dozens of employment and operational policies in institutional and community services.

Extending the big-picture view

We are increasingly being asked to provide advice on organizational policies. Recent work in this area includes:

- Meeting with the Workplace Safety and Insurance Board (WSIB) to discuss concerns around a "red flag" list that would cause investigators to begin covert surveillance of some injured workers. A community legal clinic wrote to us with concerns that the list appeared to contravene the *Code*. WSIB has confirmed that the list is no longer in use and that all references to it have now been removed. WSIB is to share new draft guidelines with us, for comment and advice.
- Recommendations for the Child and Family Services Act review.
- A submission to the College of Physicians and Surgeons on its policy on "Physicians and the *Human Rights Code*," aimed at helping physicians understand their rights and obligations under the *Code* and to set out the College's expectation that physicians will respect the fundamental rights of individuals and patients who seek medical services. The College adopted many of our suggestions.
- Several submissions to different bodies on Police Use of Force and Mental Health, including to the Ombudsman and the OIPRD.

See a complete list of submissions on our website, **www.ohrc.on.ca.**

Continuing to help organizations look at the big picture

We work with organizations to bring about "big-picture" changes by helping them learn to use a human rights lens in their work. The goal is to identify human rights barriers, remove them and prevent future human rights problems from arising.

Over the past year, we continued this kind of work in policing. We wrapped up our three-year project charter with the Windsor Police Service, and continued our efforts on race-based data collection with the Ottawa Police Service. This latter initiative is now being described as the largest study of its kind in the history of Canadian policing. We have also had ongoing discussions with Ontario Provincial Police about a potential human rights charter, like those in Windsor and Toronto, and have an ongoing partnership with the Ontario Police College to develop new human rights training and support existing training.

We are also involved in a new initiative with the Workplace Safety Prevention Services, arms-length government agency. This partnership will establish important new linkages to employers. We will work together to look at overlapping/complementary mandates, and the relationship between the *Human Rights Code*, workplace harassment legislation and the *Accessibility for Ontarians with Disabilities Act* (AODA).

Promoting human rights on the home front

The OHRC continued to promote human rights in housing across Ontario, with some important successes in 2014-15. For example, along with the Dream Team and the Human Rights Legal Support Centre, we reached settlements with the cities of Toronto and Smiths Falls. Both cities removed minimum separation distance requirements for group homes from their zoning bylaws, increasing the options for this form of housing for some of Ontario's most vulnerable residents. We urge all municipalities to remove minimum separation distances for group homes and other forms of much-needed housing.

We worked with the Province of Ontario in several areas to further connect human rights and housing laws and we're seeing some results. The Ministry of Municipal Affairs and Housing's *Provincial Policy Statement under the Planning Act* – PPS 2014, effective April 2014, incorporates some of the recommendations we made. Most importantly, it has a statement that the PPS shall be implemented in a manner that is consistent with the *Human Rights Code* and the *Charter*. This statement has led to increasing interest in our work among planners and planning schools, and is helping us as we continue to speak to municipalities about zoning.

We are also involved in building partnerships with the Ontario Professional Planners Institute and Ryerson University. We have made presentations at OPPI and planning schools, and continue to promote human rights as a key element of planning education.

TODAY

Vulnerable people have increased options for group home living, because municipalities are removing zoning barriers.

Illustration by Jennifer Harrison adorns the cover of the OHRC's Policy on human rights and rental housing

From hockey to policing: OHRC interventions

We continue to intervene in cases in the courts and tribunals, when we think the case decision could affect a wider number of people or groups, or advance human rights law. Here are some highlights:

JT. v. Hockey Canada: locker room access for trans hockey players

We intervened in a case at the HRTO about locker room access for transgender amateur hockey players. The OHRC and applicant negotiated a settlement requiring Hockey Canada to allow all players in Ontario to use locker rooms that match their self-identified gender identity, review and revise its procedures to protect privacy about players' trans status, and provide training to all Ontario coaches on gender identity and related discrimination and harassment. This case has received attention across Canada. We are following up by targeting other Ontario sports organizations and working to ensure they are aware of their Human Rights Code-related obligations and responsibilities.

Sjaarda v. Ottawa Police Services Board: accommodating for pregnancy and childcare

In this HRTO application, a female police officer of 10 years alleged she was denied certain training and job placement opportunities because of her maternity leaves and her sex. She also said she was not accommodated for her pregnancy and childcare needs. In our intervention, we sought public interest remedies including policy review and training.

Sarnia (City) v. River City Vineyard: adding creed to the zoning mix

We intervened in an appeal in the Court of Appeal for Ontario. This followed a lower court ruling that upheld a City of Sarnia decision to deny an application from a local church to rezone its premises to operate a shelter for homeless persons.

We focused the Court's attention on the fact that the Superior Court accepted that sheltering poor and homeless people in the Church was a sincerely held belief, and that based on the evidence and the legal requirements for establishing a sincerely held belief, there was no good reason to depart from that finding.

Fair v. Hamilton Wentworth District School Board: reinstatement, 10 years' back pay

In this case, the HRTO ruled that the school board did not accommodate Ms. Fair's post-traumatic stress disorder (PTSD) and fired her instead. The HRTO ordered the board to reinstate her in a suitable job, pay her roughly 10 years' back wages, make retroactive payments to the Canada Pension Plan, reinstate her years of service for pension purposes and pay her $30,000 for injury to her dignity, feelings and self-respect. The School Board appealed the HRTO's decision to the Divisional Court, which deemed the HRTO's decision and remedies to be reasonable.

We intervened in this judicial review application to provide the court with an accommodation framework, and to argue that the HRTO's remedial authority is at the very heart of its expertise and therefore reasonableness, the most deferential standard of review, is to be applied to HRTO remedial orders. The School Board is seeking to take the case to the Court of Appeal for Ontario, which we are opposing.

Jahn v. MCSCS: making mental health a priority in corrections

In 2013, we negotiated a major settlement agreement with the Ministry of Community Safety and Corrections (MCSCS) on the treatment of inmates with mental illness – particularly women – and the use of segregation in correctional facilities. The settlement agreement sets out commitments until 2017.

To date, the settlement has resulted in MCSCS:

- Reviewing its psychiatric physician contacts to try and address how to meet the needs of inmates with mental health issues
- Amending its policies to state that segregation will not be used for inmates with mental illness (to the point of undue hardship)
- Providing all inmates in segregation with information about their rights
- Completing a report in consultation with mental health experts setting out recommendations for how to serve women with mental illness
- Providing the OHRC with statistics about the number of women placed in segregation.

New Litigation and Inquiry Strategy

We developed and posted to our website our first Litigation and Inquiry Strategy. This strategy explains how we make decisions on inquiries, interventions, and Commission-initiated applications to the Human Rights Tribunal of Ontario.

We intervene in cases for many reasons, including when cases:

- Fall within our priority work areas
- Have a broad, systemic impact
- Raise significant issues of public policy or public interest from a human rights perspective
- Will affect vulnerable or marginalized people protected by the *Code*
- Will shape, clarify or advance human rights law in Ontario
- Are sufficiently serious or complex that OHRC involvement is needed
- Can be done within current OHRC resources.

Methadone inquiry ramps up

We began an inquiry into municipal regulations that could have a discriminatory impact on clients of methadone clinics and pharmacies. We have already advised several municipalities on their pending or enacted bylaws on methadone clinics, where we see the bylaws may contravene the *Human Rights Code*.

FOR MORE DETAILS ABOUT...

- **OHRC legal cases**
- **Speeches, statements by the Chief Commissioner**
- **Submissions, letters**
- **Public education sessions**

Go to www.ohrc.on.ca

June 2014 – Encouraging the next generation of human rights crusaders at the Toronto Pride Parade.

Keeping tabs on Canadian experience

In 2013, we released our *Policy on removing the "Canadian experience" barrier*. Our position is that a strict requirement for "Canadian experience" is prima facie discrimination (discrimination on its face) and can only be used in very limited circumstances.

In the past year, we have monitored job ads and contacted employers and employment agencies when we see this requirement coming up. While it appears that the larger online job sites do not have Canadian experience requirements as often as they used to, we have found several smaller firms that do. In these cases, we are contacting the organizations, advising them of our policy and expectations, and offering to meet with them on the issue. We will continue to monitor job ads in the coming year.

Adding the personal touch

We provided education to more than 7,800 people at 90 events across Ontario. Target audiences included private- and public-sector employers, human resources professionals and unions; health, education, police, corrections, housing, newcomer support and other service providers; mediators, regulatory bodies; arbitrators and lawyers.

Topics included: human rights essentials, equity and inclusion in schools, duty to accommodate, gender identity and gender expression, mental health disabilities and addictions, competing rights, the "Canadian experience" barrier, racial profiling, creed rights, systemic discrimination, sexual and gender-based harassment, pregnancy and breastfeeding, human rights and housing, human rights at work and human rights data collection.

We also presented two regional training days at the Regional Municipality of York and the City of Windsor. More than 260 participants from local governments, police services, education institutions and social services agencies attended.

Our Chief Commissioners also played a key role in adding the personal touch, delivering over 40 speeches and presentations across the province. Highlights included:

- Human rights – past, present and future , Coburg Collegiate Institute, Coburg
- Human rights and planning, Ryerson University Planning Forum, Toronto
- Gender identity and policing, Sudbury Police Service, Sudbury
- Human rights is a community concern, Taking it Local, Windsor

Computers plus training equals success

OHRC online training continues to be a hit with learners across Ontario. Here are some highlights for online learning in the past year:

- 235,000 people watched the training video Working Together: the *Code* and the *AODA*
- 22,000 people checked out Human Rights 101 (English). The Human Rights Tribunal of Ontario regularly orders this course as a remedy in human rights complaints
- 445 individuals/groups took part in the OHRC's webinars on sexual and gender-based harassment in December 2015
- From July 2014 to March 2015, people downloaded more than 19,000 pdf copies of OHRC policies and guides
- More than 4,600 people checked out *Teaching human rights in Ontario: a guide for Ontario schools*, and we distributed 2,500 printed copies.

We're getting more social

The OHRC had an increase of 30% in followers of its Twitter feed. Facebook participation also continues to increase. Other social media platforms are being developed along with a pilot project to improve outreach to Indigenous peoples in Ontario via Twitter.

2014-2015 FINANCIAL SUMMARY (April 1, 2014 to March 31, 2015)

	2014-2015 Printed Estimates ($'000)	Revised Budget March 31, 2015 ($'000)	Actual Expenditures March 31, 2015 ($'000)	2014-2015 Year End Variance from Revised Budget ($'000)	
				$	%
Salaries and Wages	4,816.0	4,173.1	4,139.5	33.6	0.81%
Benefits	356.2	509.4	514.1	-4.7	-0.92%
Other Direct Operating Expenses (ODOE)	658.2	799.1	793.1	6.0	0.75%
Total Expenses	**5,830.4**	**5,481.6**	**5,446.7**	**34.9**	**0.64%**